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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/980,440	02/15/2002	Tuomo Kivisto	OUTO 2366	3393

7812 7590 07/08/2003

SMITH-HILL AND BEDELL
12670 N W BARNES ROAD
SUITE 104
PORTLAND, OR 97229

EXAMINER

UPTON, CHRISTOPHER

ART UNIT	PAPER NUMBER
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1724

DATE MAILED: 07/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

280440

Applicant(s)

Kivisto et al

Examiner

Upton

Group Art Unit

1724

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☐ Responsive to communication(s) filed on _____
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1, 2 and 11-18 is/are pending in the application.
- ☐ Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1, 2 and 11-18 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).

☒ All ☐ Some* ☐ None of the:

- ☐ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. _____

- ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

Art Unit 1724

1. The incorporation of essential material by reference to a foreign application or foreign patent or to a publication inserted in the specification is improper. Applicant is required to amend the disclosure to include the material incorporated by reference. The amendment must be accompanied by an affidavit or declaration executed by the applicant, or a practitioner representing the applicant, stating that the amendatory material consists of the same material incorporated by reference in the referencing application. *In re Hawkins*, 486 F.2d 569, 179 USPQ 157 (CCPA 1973); *In re Hawkins*, 486 F.2d 579, 179 USPQ 163 (CCPA 1973); *In re Hawkins*, 486 F.2d 577, 179 USPQ 167 (CCPA 1973).

The application, on page 8, refers to WO 99/11841 as showing an embodiment of a separating wall.

2. Claim 18 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The specification does not describe how a separating wall may act as a drive.

3. Claims 1, 2 and 11-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Art Unit 1724

It is unclear as to whether the subcombination collector element or combination with the electrolytic tank is intended to be claimed. Due to the language recitation of the bottom of the tank, the combination has been assumed for purposes of examination.

Proper antecedent basis for the elements recited should be established, such as for the sieve and jet of claim 15, and the drive apparatus of claim 18. Claim 17 depends from canceled claim 8. In claim 2, "constitute", in claim 14, "advantageously", and in claim 17, "composed of" are vague and indefinite. In claims 11 and 12, the structural relationship of the collector and the lid or drive is unclear. In claim 13, the collecting direction should be given a structural basis. In claim 18, it is unclear as to what the wall separates and how it acts as a drive.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 2, 12 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burton, Craney or Ferrari et al, each in view of Condit Jr or Hannum.

Art Unit 1724

Burton, Craney and Ferrari each disclose electrolytic tanks with moveable collector elements, substantially as claimed. The references do not disclose the collector elements having apertured plates. It is known to use an apertured plate to collect settled solids, as exemplified by Hannum and Condit. It would therefore have been obvious for one of ordinary skill in the art to use such apertured plates in the systems of Burton, Craney or Ferrari, to enable the solids to drain. Note that the separation of solids under a certain size is inherent to any filter.

6. Claims 1, 2, 12 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burton, Craney or Ferrari et al, each in view of Condit Jr or Mieder.

Burton, Craney and Ferrari each disclose electrolytic tanks with moveable collector elements, substantially as claimed. The references do not disclose the collector elements having bar elements. It is known to use collectors with bar elements to collect settled solids, as exemplified by Mieder (see figure 4) and Condit (wires 5). It would therefore have been obvious for one of ordinary skill in the art to use such barred collectors in the systems of Burton, Craney or Ferrari, to enable the solids to drain or be rinsed.

7. Claims 11, 13-15 and 18 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112 set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Art Unit 1724

The recitation of an electrolytic tank having a moveable collector with means for separating coarse particles in combination with a jet prior to the collector, a suction element after the collector, or a lid; or where the collector is driven by a separating wall, patentably distinguishes over the prior art of record.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Other references of interest include Kammel, Seidenstricker, Mitchell and Pentz. Martilla appears to be the U. S. equivalent to WO 99/11841.

9. Any inquiry concerning this communication should be directed to Christopher Upton at telephone number (703) 308-3741.

A handwritten signature in black ink, appearing to be 'CU' followed by a stylized flourish.

**CHRISTOPHER UPTON
PRIMARY EXAMINER**